United Nations A/HRC/26/3/Add.1

General Assembly

Distr.: General
26 May 2014

Original: English

Human Rights Council
Twenty-sixth session
Agenda item 6
Universal Periodic Review

Report of the Working Group on the Universal Periodic Review*

New Zealand

Addendum

Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review

* The present document was not edited before being sent to the United Nations translation services.

GE.14-03466 (E)

1403466

Please recycle

1. New Zealand welcomes the recommendations made during its Second Universal Periodic Review on 27 January 2014. Following the review, the Government met with NGOs, interested individuals and the New Zealand Human Rights Commission and received 11 civil society submissions.

2. As set out below, New Zealand accepts 121 recommendations and rejects 34 recommendations. Accepted recommendations are those where we fully support the recommendation and implement it in practice. We reject recommendations for several reasons. With recommendations split across distinct areas we may accept only one part of that recommendation. Others, we accept the spirit behind the recommendation, but cannot commit to a specific proposed method of implementation. We have indicated in our responses where the reasoning lies.

3. The New Zealand Government is aware that some issues raised by the Human Rights Commission and NGOs in their UPR submissions were not reflected in the interactive dialogue and Working Group recommendations, for example issues around legal abortion and the rights relating to sexual orientation, gender identity and intersex people. We intend to follow up on these issues separately as part of our commitment to ongoing engagement with civil society on the UPR.

I. International treaties:

4. Accepted

1, 3, 4: New Zealand will consider acceding to the CPED, in accordance with its domestic processes, prior to New Zealand's third UPR.

6, 7: New Zealand is beginning the domestic treaty examination process with a view to acceding to the OP-CRPD.

15: New Zealand will consider the implications of signing and ratifying the OP-CRC-IC as part of its commitment to the CRC.

25: New Zealand will be able to ratify the ATT once its domestic law has been brought into line with the Treaty's requirements.

5. Rejected:

2, 5, 10, 24: New Zealand accepts the spirit of these recommendations, but is unable to accept them in full. New Zealand Parliament must consider all treaties before ratification.

8, 9: While New Zealand is not considering ratification of the OP-ICESCR at this stage, this may be reviewed later.

11, 12: New Zealand is considering beginning the domestic treaty examination process with a view to acceding to the OP-CRPD, (see response to recommendation 11).

13, 14: New Zealand will not ratify conventions or apply international standards that are inconsistent with New Zealand's unique legal, constitutional, and Treaty of Waitangi arrangements.

16: New Zealand will consider the implications of signing and ratifying the OP-CRC-IC as part of its commitment to the CRC.

17, 18, 19, 20, 21, 22, 23, 26: New Zealand is not considering ratifying the ICRMW.

II. Constitutional and legislative framework

6. Accepted:

28: New Zealand will continue to promote rights for vulnerable populations through various means.

29, 31, 47: Accepted in full.

30, 37: New Zealand is committed to the Treaty of Waitangi and supporting Crown-Māori relationships. The Government is currently considering a response to the Constitutional Advisory Panel's report, following the constitutional review process.

7. Rejected:

27: See recommendations 17 and 33.

32, 33, 34, 35: The Constitutional Advisory Panel recommended continuing the conversation on economic, social, and cultural rights.

36, 39: New Zealand's legislative framework provides protection against discrimination, including on the grounds of gender. We are already working towards addressing health and employment of Māori and Pasifika through other means.

38: The Government is committed to the Treaty of Waitangi and supporting Crown-Māori relationships, and engages with Māori and Pasifika about discrimination.

III. Human rights policy measures

8. Accepted:

42, 43: The Human Rights Commission is developing a second national human rights action plan.

44: Accepted in full.

9. Rejected:

45: The Human Rights Commission is an independent Crown entity. The Crown Entities Act 2004 specifies appointment by the Governor-General.

46: Parliament determines the nature of parliamentary committees, and all committees consider human rights implications of relevant legislation.

IV. Equality and non-discrimination

Children

10. Accepted:

V55, 56, 58, 142: New Zealand will continue to promote the rights of children, particularly vulnerable and at risk children, such as through Vulnerable Children Bill and the Children's Action Plan. The Government's response to the Advisory Group of Experts on solutions to child poverty lays out the Government's programme of action to address poverty.

59: New Zealand has established a range of income poverty and hardship measures.

57, 60, 61, 62, 63, 66, 67: The Government's primary approach for addressing poverty is to promote social mobility through paid employment driven by economic growth, clear work expectations, and improved educational performance, while ensuring that New Zealand's social security safety net continues to support people who cannot support themselves. New Zealand continues to work to reduce violence against children.

64: New Zealand has implemented significant changes to our social assistance systems. These include individualised support to all people including Māori and Pasifika.

65 (also 66): New Zealand will continue to seek to improve socioeconomic conditions of Māori and Pasifika in its policies.

138: New Zealand will meet the underlying principle of this recommendation through various means. The Government has set a target that in 2016, 98% of children starting school will have participated in quality early childhood education. The Government provides funding that supports providers of early childhood education, including for the most vulnerable children.

139, 140, 141: New Zealand already ensures children have access to free education.

11. Rejected:

54: New Zealand continues to progress towards greater compliance with the principles and provisions of UNCROC. Where inconsistencies exist, New Zealand will take the opportunity when creating or reviewing policy and legislation to further embed the Convention's principles and provisions.

Indigenous Peoples

12. Accepted:

76: New Zealand has placed a greater emphasis on evidence-based interventions to maximise the impact of services.

78: New Zealand will meet the underlying principle of this recommendation through *Ka Hikitia – Accelerating Success 2013-17.*

79, 80: New Zealand has set clear targets for improving social and economic outcomes, and has directed agencies to work more collaboratively with organisations in communities.

81, 82, 83, 84, 133: New Zealand will continue a focus on Māori and Pasifika groups in the context of work to reduce crime, including their overrepresentation in the justice system. New Zealand is committed to increasing Māori participation in the police force.

137: Accepted in full.

143, 144: New Zealand is working towards ensuring that all children and students experience educational success. For Māori and Pasifika, this requires the education system to acknowledge, support, and incorporate their needs, identity, language, and culture in their learning experiences.

Women

13. Accepted:

91, 92: New Zealand is committed to improving in three priority areas: greater economic independence for women, more women in leadership positions, and improving women's

safety from violence. The Ministry of Women's Affairs provides a nominations service that supports women in leadership in a variety of ways.

93, 94, 96, 97, 98, 99: New Zealand's legislative framework provides comprehensive protection against discrimination, including protection against discrimination on the grounds of gender, and a range of specific legislation which directly or indirectly protects. The Human Rights Commission, an independent institution, also has a focus on equal employment opportunities. New Zealand is working to address the underlying drivers of the gender pay gap.

14. Rejected:

95: New Zealand has established specific priorities to provide the greatest benefits to women and consequential benefits for New Zealand (see response to recommendation 91). New Zealand monitors both the status of women and the status of the population in general and has identified goals or targets associated with each priority.

Race

15. Accepted:

100, 101, 102, 103, 104: The Office of Ethnic Affairs fosters interaction between different ethnic groups and participation by everybody in all aspects of New Zealand life, runs a *Building Bridges* programme designed to promote a more positive mainstream reception of Muslims in New Zealand, provides training in intercultural awareness and communication, and offers services to assist organisations in establishing or improving their workplace ethnic diversity management strategies.

Persons with abilities

16. Accepted:

105: New Zealand has developed a Disability Action Plan in partnership with Disabled Persons' Organisations to effectively implement the Disability Strategy. It is intended that the Strategy will be updated in 2015.

136: New Zealand is exploring potential health improvement options for persons with intellectual disabilities and plans to engage with the intellectual disability sector on how to make health care more accessible to this group.

Migrants, refugees, and asylum seekers

17. Accepted:

146: The Immigration Act 2009 protects education providers from prosecution where they enrol children who are unlawfully in New Zealand. This change supports any future decision by New Zealand to withdraw the reservation to Article 2.

147, 148: New Zealand recognises that migrant integration into workplaces and communities requires adjustment for all migrant groups and their host communities. Facilitating this integration involves multiple government agencies.

149: New Zealand considers all means of facilitating the orderly and prudent administration of the Immigration Act prior to ordering the detention of individuals. Where a person is to

be detained, New Zealand ensures there is a prospect of some immigration activity regarding that person in the foreseeable future.

150: Under the Immigration Act 2009, the only way in which mass arrival asylum seekers are treated differently from others is by allowing for detention for up to six months under group warrants. This is a management mechanism, and has a number of protections built in to ensure that it is only used in a way which is fully compatible with New Zealand's human rights obligations.

151: The measures in the Act have been assessed against the international instruments to which New Zealand is a signatory.

152: The Immigration Act incorporates and codifies into New Zealand law the 1951 United Nations Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees. The Act also codifies certain obligations, and determines to whom it owes those obligations, under CAT and the ICCPR.

18. Rejected:

153: New Zealand does not want to disregard this as an option if circumstances change. Any use by New Zealand of offshore processing centres would require legislative amendment.

General:

19. Accepted:

68, 69, 70, 71, 72, 145: Accepted in full.

73: New Zealand is committed to maintaining ongoing partnerships with iwi, hapū and whānau Māori.

74: For example, New Zealand's investment in a Whānau Ora approach has increased Māori and Pacifica people's access to education, health and social services.

75, 77: We will continue to seek new ways to deliver health, education, and justice services in a way that meets the needs of people using those services.

154: Respect for human rights, individual privacy, and traditions of free speech in New Zealand were guiding principles in undertaking the review of the Government Communications Security Bureau Act 2003. The amendments to the Act were compliant with the Bill of Rights Act 1990. The GCSB Act will be subject to further review in 2015.

V. Right to life, liberty and security of the person

Violence against women and children

20. Accepted:

106, 108, 110, 111, 112, 115, 116, 117, 122, 123, 124, 128: New Zealand continues its commitment to end violence against women, and the neglect and abuse of children. There are a number of initiatives underway and further work is being developed.

107, 127: New Zealand provides a programme of action to further address family violence through the Taskforce for Action on Violence within Families. In addition it has developed, and is developing, plans to address targeted areas of violence against women and children.

109: The Cross-Government Review of Specialist Sexual Violence Services is working on integrated approaches to monitoring the performance and evaluating the effectiveness of the sexual violence sector.

114, 120, 125, 126: New Zealand is implementing legislative and policy measures to prevent violence against women and children, including the Family Court Proceedings Reform Bill. New Zealand recognises the importance of collecting accurate data.

118, 119: As part of the cross-Government review, a National Sexual Violence Primary Prevention Strategy has been developed which includes encouraging safe and respectful behaviour. The Government is implementing the Family Court Proceedings Reform Bill, and is committed to developing and promoting consistent policies, training, and messages around sexual violence.

121: Government agencies remain committed to ending gender-based violence. Implementation of these recommendations has been superseded by later work.

129, 130: New Zealand has legislation in place to prevent and sanction forced and underage marriage. Relevant government agencies have agreed to identify and support victims of forced and underage marriage. New Zealand also has legislation in place to prevent and address female genital mutilation.

21. Rejected:

113: The Children's Action Plan aims to protect vulnerable children from maltreatment. New Zealand has other programmes to address intimate partner violence and child poverty.

Other:

22. Accepted:

131: The Government is currently taking legislative steps to ensure New Zealand's anti-trafficking legislation is fully compliant with the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

134: New Zealand continues to support families/whānau in New Zealand through legislation, and various initiatives.

135: Accepted in full.

155: New Zealand's primary counter-terrorism legislation is the Terrorism Suppression Act 2002, and complies with the legal safeguards enshrined in the ICCPR.

23. Rejected:

132: Tasers are an important tactical option to ensure the safety of both the public and police, since police in New Zealand do not routinely carry firearms. Any use of tasers is closely monitored.

VI. Indigenous peoples

24. Accepted:

40: Māori are encouraged to raise their concerns regarding the Treaty settlement negotiations process with officials and Ministers. Māori can also go to the Waitangi Tribunal to inquire into claims that the Crown has acted in breach of Treaty principles.

41: The strengthening of the relationship between the Crown and Māori is an integral part of the treaty settlement process and is reflected in every settlement.

85: The Government has recently completed consultation on proposals for a new Māori language strategy and is currently considering next steps.

86, 88: New Zealand is committed to maintaining ongoing partnerships with iwi, hapū and whānau Māori. Māori rights and interests are recognised and provided for in various pieces of legislation. The Treaty of Waitangi must be considered and priority given to ensuring that Māori interests are identified and consultation with the relevant communities is undertaken at an early stage. Crown guidelines for negotiating historical claims note that Treaty settlements should not create further injustices.

87: Te Puni Kōkiri has an existing work programme in place to unlock the potential and increase the utilisation of Māori freehold land (see recommendations 79 & 84).

89: UNDRIP is consistent with the Treaty of Waitangi, which continues to be the central focus for the Government's efforts to resolve issues affecting New Zealand's indigenous people.

90: The Office of Treaty Settlements continues to negotiate settlements of historical Treaty claims with Māori on behalf of the Crown. Where appropriate, settlements provide for co-governance arrangements between local authorities and Māori over natural resources. The Government is also considering how to improve Māori participation in local government and resource management processes.

VII. Canterbury Earthquakes

25. Accepted:

51: New Zealand agrees to speed up the rebuilding processes that are within the scope of government.

52, 53: Accepted in full.

VIII. Aid

26. Accepted:

48, 49, 50: From 2002 to 2009, New Zealand increased Vote ODA progressively to achieve a higher level of ODA: GNI. Due to significant fiscal pressures arising from the Christchurch earthquakes, further planned increases to a target of NZ$600 million were spread over a longer time period. We now expect to reach this target in 2015/16. Since 2009/10, budget increases for Vote ODA have been based on performance and delivery of outcomes, rather than ODA: GNI targets.